

HAYDEN SCOTT ROSE,)
)
Plaintiff,)
)
v.) Case No. 1:22-CV-478
)
PRESQUE ISLE VILLAS)
CONDOMINIUM HOMEOWNERS)
ASSOCIATION, INC. et al.,)
)
Defendants.)

This matter is before the Court on a proposed Joint Rule 26(f) Report [Doc. #16]. In the Joint Report, the Parties propose that discovery be stayed pending a ruling on a “pending dispositive motion.” However, this Court does not ordinarily delay discovery once an Answer has been filed, even while dispositive motions are pending, unless those motions raise issues regarding the Court’s jurisdiction to proceed. Notably in this case, no dispositive motions have been filed, so there is no way to assess the basis for the request, and the request essentially seeks to stay discovery pending a ruling on a future potential motion. That is not something the Court would be inclined to allow.

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concludes. In addition, the Court would not ordinarily bifurcate discovery, so if Plaintiff responds to a pre-discovery Motion for Summary Judgment by requesting to take discovery under Rule 56(d)(2), the Court would ordinarily proceed with discovery and stay consideration of dispositive motions until after all discovery has concluded.

With this additional guidance, the Court will set a deadline of September 30, 2022 for any pre-discovery dispositive motions. Any response requesting discovery under Rule 56(d) must be filed by October 7, 2022, and any reply to such a request must be filed by October 14, 2022. The initial pretrial conference will be continued to October 20, 2022 at 9:30 a.m., and at that time the Court will consider how to structure discovery and the briefing and consideration of dispositive motions.¹

The Court notes that the parties have also filed a Joint Local Rule 5.5 Report. The Court approves that Report as submitted. However, the Court notes that the Report does not reflect that the Parties engaged in the required preliminary conference. Therefore, prior to October 20, 2022, the Parties must meet and confer to discuss the issues of confidentiality raised in this case and the potential need for filing documents under seal. That discussion must include the nature of any confidential documents that may be involved in the case, the possibility of using stipulations to avoid the need to file certain documents, and the possibility of agreed-upon redactions of immaterial confidential information in filings to avoid the need for filing documents under seal.

¹ Responses filed on October 7, 2022 need only address Rule 56(d) requests. At the Initial Pretrial Conference on October 20, 2022, the Court will consider any Rule 56(d) issues and will set any deadlines for substantive responses to the dispositive motions.

IT IS THEREFORE ORDERED that the Joint Local Rule 5.5 Report [Doc. #17] is approved as submitted, but the Parties must engage in the required preliminary conference before October 20, 2022, as set out herein.

IT IS FURTHER ORDERED that the Court will CONTINUE the Initial Pretrial Conference and the consideration of the Joint Rule 26(f) Report [Doc. #16] to October 20, 2022 at 9:30 a.m. in Courtroom 3 of the United States Courthouse in Winston-Salem, North Carolina. Counsel should plan to appear in person.

IT IS FURTHER ORDERED that any pre-discovery dispositive motion must be filed by September 30, 2022; any response requesting discovery under Rule 56(d) must be filed by October 7, 2022; and any reply to such a request must be filed by October 14, 2022.

This, the 20th day of September, 2022.

/s/ Joi Elizabeth Peake
United States Magistrate Judge